

FILED

MAY 15 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

#3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE B. HERNANDEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. C 08-0710 MMC (PR)

ORDER OF DISMISSAL

On November 30, 2007, petitioner, a prisoner incarcerated at the ICE Federal Detention Center in Eloy, Arizona, and proceeding pro se, filed, in the United States District Court for the Central District of California, a "Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody." On January 3, 2008, the Central District construed said motion as a habeas petition brought pursuant to 28 U.S.C. § 2254 as petitioner sought to challenge a 2006 conviction obtained in Santa Clara County Superior Court; further, because Santa Clara County is located within the Northern District of California, the action was transferred to this district.

On January 30, 2008, the petition was filed in the Northern District and assigned to the undersigned. That same date, the Clerk of the Court sent petitioner a notice explaining the Northern District's electronic filing requirements in cases where one of the parties is unrepresented. On March 4, 2008, the notice was returned to the Court as undeliverable because petitioner was not at the address he had provided in his petition.


1 Pursuant to the Civil Local Rules of this district, "a party proceeding *pro se* whose
2 address changes while an action is pending must promptly file with the Court and serve upon
3 all opposing parties a Notice of Change of Address specifying the new address." See Civ. L.
4 R. 3-11(a). Where mail directed to such party "has been returned to the Court as not
5 deliverable" and "the Court fails to receive within 60 days of this return a written
6 communication from . . . the *pro se* party indicating a current address," the Court "may
7 dismiss the complaint without prejudice." See Civ. L.R. 3-11(b).

8 Here, more than sixty days have passed since petitioner's mail was returned to the
9 Court as undeliverable and petitioner has not notified the Court of his correct current address.
10 Accordingly, the above-titled action is hereby DISMISSED without prejudice.

11 The Clerk shall close the file.

12 IT IS SO ORDERED.

13 DATED: MAY 15 2008

14 
15 MAXINE M. CHESNEY
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSE B HERNANDEZ,
Plaintiff,

Case Number: CV08-00710 MMC

CERTIFICATE OF SERVICE

v.

UNITED STATES OF AMERICA,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 15, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jose B. Hernandez
Ice Federal Detention Center
A 92991767
1705 East Hanna Road
Eloy, AZ 85231

Dated: May 15, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk

FILED

MAY 15 2008

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE B. HERNANDEZ,

No. CV-08-0710 MMC (PR)

Petitioner,

JUDGMENT IN A CIVIL CASE

v.

UNITED STATES OF AMERICA,

Respondent.

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS SO ORDERED AND ADJUDGED the above-titled action is hereby
DISMISSED without prejudice.

Dated: May 15, 2008

Richard W. Wieking, Clerk

Tracy Lucero

By: Tracy Lucero
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSE B HERNANDEZ,
Plaintiff,

Case Number: CV08-00710 MMC

CERTIFICATE OF SERVICE

v.

UNITED STATES OF AMERICA,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 15, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jose B. Hernandez
Ice Federal Detention Center
A 92991767
1705 East Hanna Road
Eloy, AZ 85231

Dated: May 15, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk

OFFICE OF THE CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300



REASON CHECKED
Unable to ID / No Inmate #
Refused / Unapproved mail
Unclaimed / No
Near
Out

FILED

MAY 27 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

mme

Jose B. Hernandez
Ice Federal Detention Center
A 92991767
1705 East Hanna Road



UNITED STATES POSTAGE
\$00.420
02 1A
0004329882 MAY 16 2008
MAILED FROM ZIP CODE 94102

RECEIVED
MAY 19 2008

NIXIE

850 CC 1

40 05/21/08

RETURN TO SENDER
REFUSED
UNABLE TO FORWARD

BC: 94102366199

*0540-08209

|||||